

**Standard Terms and Conditions
for Sale and Delivery of Goods produced by
Forschungsinstitut für Leder und Kunststoffbahnen gGmbH (FILK)**

§ 1 – General

These Standard Terms and Conditions apply to all Contracts for the delivery of movable goods between Forschungsinstitut für Leder und Kunststoffbahnen gGmbH (Contractor) and the customer. Sale offerings are directed to both Consumers and Business Customers (as defined below). For the purpose of these Standard Terms and Conditions, (i) a “Consumer” is any individual entering into the contract for a purpose not related to his or her business, trade or self-employed professional activity (Sec. 13 of the German Civil Code), and (ii) a “Business Customer” is an individual, company or partnership vested with legal capacity who enters into the relevant contract in the conduct of its business or its self-employed professional activity (Sec. 14 (1) of the German Civil Code).

They also apply to Business Customers for all future business relationships even if they are not expressly agreed again. Our terms and conditions are considered agreed, if there is no objection in writing immediately after receipt. Any opposite and/or divergent terms and conditions of the purchaser shall not apply, unless we have expressly agreed to their validity in writing. Any opposite and/or divergent terms and conditions of the customer will also not be part of the contract, if the contractor does not expressly object or carry out an unreserved delivery. Individual agreements in the written contract or the written order confirmation are prior to these Standard Terms and Conditions. Verbal promises by our representatives or other auxiliary persons require the written confirmation by us.

§ 2 – Conclusion of Contract

1. Offers of the contractor are non-binding. The order of the customer is a binding offer. This offer can be accepted by the contractor within 4 weeks after submittal. The acceptance can be made by written order confirmation and/or start with the execution. Also alterations, supplements and verbal additional agreements must be confirmed in writing. This also applies to the present written form clause.
2. The contractor reserves the property and copyright to illustrations, calculations and other documents. Prior to passing on to third parties it requires the express consent of the contractor.
3. Quantity data are always understood as approximate. Minus or plus deviations of 10 %, which are caused by safety requirements or filling conditions, are regarded as conformable to the contract. Such deviations in quantity will be taken into full account in the invoice amount.
4. Supplementary clauses in offers concerning the denomination of products, e. g. "approx." ("ca."), "as delivered before", "as before" or the like only relate to the quality or quantity of products, but not to the price. Such particulars in the orders and a possible confirmation will be understood by the contractor accordingly. Measurement and performance data and figures are only approximate and not binding unless expressly defined as binding in the offer and written order confirmation.

§ 3 – Purchase price and payment

1. Prices are binding and for business customers excluding statutory VAT. The calculation is based on the quantities or weights determined by the contractor. Are more than four months between contract conclusion and agreed delivery date price changes by the contractor are permitted. Change wages or material costs until delivery he is entitled to change the price appropriately according to the cost increases. The customer is only entitled to withdraw the contract if a price increase by the contractor significantly exceeds the increase in the general cost of living between order and delivery. For business customers the higher price applies if at the time of service provision the price increases through a change in the market price or through an increase of remuneration of in service provision included third parties. The customer is only entitled to withdraw the contract if this price exceeds the originally agreed price by 20%. This right must be asserted immediately after notification of the increased price.
2. The purchase price is due upon delivery of the goods and is to be paid without cash discount.

3. The contractor is entitled towards business customers to demand from the due date interests in the amount of 9 percentage points above the base interest rate of German Federal Bank. Towards consumers is the interest rate 5 percentage points above the base interest rate of German Federal Bank. The contractor reserves the right to claim further damage caused by delay against the customer.
4. Bills of exchange or cheques will only be accepted by ways of exception and on account of payment. They shall be valid payment when they are cashed. Bank service charges shall be borne by the customer.
5. The customer shall have a right of set-off or retention only where a claim is uncontested, undisputed or already established in law. The customer may only exercise a right of withholding any payment owing if its counterclaim is linked synallagmatic. If the purchaser is a business customer, he is only authorized to exercise a right of retention if its counterclaim arises from the same contractual relationship.
6. The claims of the contractor for payment shall become statute-barred divergent to § 195 German Civil Code (BGB) within five years. The beginning of the limitation period applies to § 199 German Civil Code (BGB).
7. Are reasonable doubts about the solvency of the customer the contractor may demand advance payment or provision of a security. The contractor is entitled, to withdraw the contract if the customer files an application for the opening of insolvency proceedings over his assets, has submitted an affidavit according to § 807 Civil Procedure (ZPO) or the insolvency proceedings on his assets were opened or the opening was rejected for lack of mass.

§ 4 – Delivery

1. Unless a delivery-date has been agreed explicitly, the delivery times and dates agreed are always regarded as approximate. These are each extended for the duration of the delay in cases of strikes and force majeure, as well as lack of cooperation of the customer.
2. Cases of force majeure - public-law constraints, strike, and lockout being included - entitle the contractor to withdraw the contract. In such cases, indemnification for non-performance or delay is excluded towards business customers. Towards business customers the deadlines are subject to reservation of self-supply by upstream suppliers and extend accordingly as far as the delay was not caused by the contractor.
3. The risks of transportation ex place of delivery are always allocated to customer's debit; this also applies to carriage-paid delivery.

§ 5 – Packaging

1. As far as deliveries are made in loan casks, not later than 4 weeks after arrival at the customer's he has to send the latter back to the contractor void and in good order and condition on his own account and risk, or return them free to the contractor's vehicle, against confirmation of receipt.
2. If the customer does not fulfil the commitment mentioned under paragraph 1 within the time stipulated, the contractor will be entitled to charge the customer with a reasonable fee for the time exceeding 4 weeks and, after unsuccessful setting of a deadline for return, to ask for paying the replacement price, setting off the fee mentioned above against it.
3. For disposable packaging, the customer agrees to dispose of the packaging at its own expense.

§ 6 – Retention of title

1. The contractor reserves ownership of the object of purchase until full payment of the purchase price by the customer. For business customers the ownership of the object of purchase remains reserved until the fulfillment of all claims against the customer even if the reserved goods have already been paid.
2. About foreclosures and other access by third parties or impairments of any kind on the reserved goods or the assigned claims the customer must immediately inform the contractor by handing over the documents necessary for an intervention. He has to inform third parties already in advance to indicate the existing rights to the goods.
3. If the customer does not pay also after setting of an extended deadline, the contractor will be entitled to claim back the reserved goods without setting of a further extended deadline and without notice of rescission. Such taking back of the goods reserved will mean a withdrawal from the contract only if the contractor has declared so in writing.
4. In case of processing, transformation, mixing or combination of the reserved goods with other goods acquires the contractor immediate (co-) ownership of the manufactured item in the ratio of the invoice value of the reserved goods to the invoice values of foreign goods. This then counts as reserved goods. In this regard the contractor is considered as a manufacturer within the meaning of § 950 German Civil Code, the working and processing or transformation takes

place in the name and order of the contractor. In this respect the customer or third parties keep fiduciary and free of charge in custody for the contractor. On request the customer has to hand out all necessary information about the stock of goods in our ownership and the assigned claims to the contractor as well as hand out the documents for the assertion of the assigned claims.

5. If the customer is a business customer he cedes to the contractor claims to third persons, which arise by resale of the goods reserved, in order to secure all contractor's claims. If the customer sells goods which, in accordance with paragraph 4, is only partially property of the contractor, he will cede the claims to third persons against a corresponding partial amount. If the customer uses the reserved merchandise in the framework of a contract for work and/or services or similar contract, he will cede to the contractor the (compensation-for-work) claim to the invoice value of the merchandise used for this purpose.
6. Under the condition of an ordinary course of business the customer is authorized to collect the accounts resulting from a redispach of the goods reserved. If the contractor has a serious reason to fear that the customer does not or will not discharge his liabilities correctly, the customer will have to refrain from any disposition of the liability, give the contractor all necessary information on the stock on hand that comprises the property as well as on the claims ceded to the contractor, and hand over the data and documentation required for the assertion of the claims ceded.
7. If the value of the reserved goods exceeds the total amount of the claim to the customer by more than 10 %, the contractor is obliged to unblock securities of his choice on customer's request.

§ 7 – Warranty rights

1. For material defects towards business customers, which also include absence of properties warranted, the contractor is liable according to the legal regulations if beside the legal the following requirements are fulfilled:
 - a. Immediately after delivery, in accordance with commercial customs the customer has to check the goods and its packing. Moreover, if the merchandise is delivered in shipping pieces, he has to check the label of each single shipping piece for accordance with the order.
 - b. The customer immediately has to complain in writing about deficiency or defects. Otherwise, the goods are also considered as approved.
 - c. If the customer does not perform the check as required or if he does not complain immediately about deficiency or a defects found or findable, he will lose his warranty rights concerning the deficiency or defects found or findable. The same applies to the case of erroneous delivery of merchandise other than stipulated, also if the deviation is so essential that an approval of the merchandise by the customer had to be regarded as impossible.
 - d. The contractor reserves the right to choose the type of supplementary performance.
 - e. The warranty period is one year. The period of limitation in the case of a delivery recourse according to §§ 478, 479 German Civil Code remains unaffected.
2. Is the customer a consumer he has to indicate in writing obvious defects to the contractor within two weeks after the occurrence of the defect. Otherwise, the warranty rights expire unless the defect was fraudulently concealed or it was taken over a guarantee for the condition of the goods.

§ 8 – Liability for consequential harm caused by defects and other harm

1. The liability of the contractor for contractual breaches and of duty and tort is limited to intent and gross negligence. This does not apply in case of injuries to life and limb or health of the customer as well as for claims for damages due to an injury of substantial contract obligations and the compensation of occurred damages. The disclaimer also applies to at least slightly negligent breaches of duty of our vicarious agents.
2. Liability in case of delay in delivery is for every completed week of delay limited as part of a lump-sum compensation for default to 0,5% of the delivery value, maximum not more than 5% of the delivery value. Liability in case of injury of substantial contract obligations is limited to the contract-typical and regularly foreseeable damage.
3. Claims for damages, except injuries to life and limb or health or injury of substantial contract obligations, shall be in lapse after one year, starting with their occurrence or in the case of claims for damages due to a defect from the delivery of the goods.
4. As far as we have excluded a liability for damages or it is restricted, this also applies to the personal liability of our employees, agents and vicarious agents.

§ 9 – Final provisions

1. Are both contracting parties are business customers the place of business of the contractor is agreed as place of jurisdiction and place of fulfillment.
2. Should any of the above clauses be or become ineffective, this will not affect the validity of the remainder of the contract. In place of the ineffective conditions such regulations should be agreed which come closest to the economic purpose of the contract, with due regard for mutual interests.
3. The law of the Federal Republic of Germany shall apply, excluding the convention of the United Nations concerning contracts on the international purchase of goods (CISG).

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